

## Joint Standing Committee on Banking and Insurance

**LD 307**                      **An Act to Allow Self-referral for Obstetrical Care in Managed Care Plans**                      **ONTP**

<u>Sponsor(s)</u> VIGUE DAGGETT		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
---------------------------------------	--	---------------------------------	--	---------------------------

LD 307 was carried over from the First Regular Session and First Special Session and proposed to require all group managed care plans of nonprofit hospital and medical service organizations, insurers and health maintenance organizations to provide coverage for obstetrical care throughout a pregnancy without requiring a prior referral from the woman's primary care physician.

The bill would have applied to all policies, contracts and certificates in effect on or after January 1, 1998.

**LD 889**                      **An Act to Ensure Fair Claims Settlement Practices**                      **PUBLIC 621**

<u>Sponsor(s)</u> LAFOUNTAIN		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-482
---------------------------------	--	-----------------------------------	--	------------------------------------

LD 889 was carried over from the First Regular Session and First Special Session and proposed to expand the list of the types of unfair claims settlement practices by an insurer for which recovery may be made.

**Committee Amendment “A” (S-482)** replaced the bill. It proposed to expand the list of unfair claims practices to include the failure of an insurer without just cause to make prompt, fair and equitable settlement of claims for which liability has become reasonably clear. The amendment defines "without just cause" as refusing to settle claims without a reasonable basis to contest liability, the amount of any damages or the extent of any injuries claimed.

The amendment clarifies that the Maine Revised Statutes, Title 24-A, section 2436-A does not prohibit any other claim or cause of action available under law against an insurer. The amendment excepts workers' compensation claims from coverage under this provision.

The amendment also adds a fiscal note to the bill.

### *Enacted law summary*

Public Law 1997, chapter 621 expands the list of actions considered to be unfair claims settlement practices by insurers to include the failure of an insurer without just cause to make prompt, fair and equitable settlement of claims for which liability has become reasonably clear. An insurer acts “without just cause” if it refuses to settle claims without a reasonable basis to contest the liability of the insurer, the amount of any damages or the extent of any injuries claimed.

Public Law 1997, chapter 621 clarifies that Maine Revised Statutes, Title 24-A, section 2436-A does not prohibit any other claim or cause of action a person has against an insurer. It also exempts workers' compensation insurance claims from the application of Title 24-A, section 2436-A.

**LD 1060**                      **An Act to Provide Health Insurance Coverage for Prostate Cancer Screening**                      **PUBLIC 754**

<u>Sponsor(s)</u> ABROMSON MAYO	<u>Committee Report</u>	<u>Amendments Adopted</u> S-452 ABROMSON
---------------------------------------	-------------------------	---------------------------------------------

LD 1060 was originally considered by the Joint Standing Committee on Banking and Insurance during the First Regular and First Special Session, but the bill died between bodies when the House and Senate failed to agree on the legislation. LD 1060 was recalled from the Legislature's dead file in the Second Regular Session. The bill proposed to require all individual and group contracts of nonprofit hospital and medical service organizations, insurers and health maintenance organizations to provide insurance coverage for prostate cancer screening. Coverage for prostate cancer screening must be provided annually to men 50 years of age or older; to African-American men 45 years of age or older; and to men 40 years of age or older with a family history of prostate cancer.

The bill proposed to apply to all policies, contracts and certificates in effect on or after January 1, 1998.

**Senate Amendment "A" (S-452)** was proposed and adopted during the Second Regular Session after LD 1060 was recalled from the Legislature's dead file. Senate Amendment "A" proposed to require all individual and group contracts of nonprofit hospital and medical service organizations, insurers and health maintenance organizations to provide insurance coverage for prostate cancer screening. Coverage for prostate cancer screening must be provided annually to men 50 years of age or older until a man reaches the age of 72 if the procedures are recommended by a physician.

The amendment proposed to exempt accidental injury, specified disease, hospital indemnity, Medicare supplement, long-term care and other limited benefit health insurance policies and contracts from the requirement that health insurance contracts provide coverage for prostate cancer screening.

The amendment makes the changes made by the bill and this amendment applicable to all policies and contracts and certificates in effect on or after September 1, 1998.

The amendment also adds a fiscal note to the bill.

***Enacted law summary***

Public Law 1997, chapter 754 requires all individual and group contracts of nonprofit hospital and medical service organizations, insurers and health maintenance organizations to provide insurance coverage for prostate cancer screening. Coverage for prostate cancer screening, including a prostate-specific antigen (PSA) test and digital rectal examination, must be provided annually to men age 50 or older until a man reaches age 72 if the procedures are recommended by a physician.

The requirements of chapter 754 apply to all policies, contracts and certificates in effect on or after

**LD 1243****An Act to Protect the Privacy of Genetic Information****PUBLIC 677**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RAND	OTP-AM	S-584 S-594 LAFOUNTAIN

LD 1243 was carried over from the First Regular and First Special Session and proposed to provide measures for the protection of the privacy of genetic information. It proposed to prohibit discrimination in any form of insurance regulated by the Bureau of Insurance on the basis of genetic information and requires informed consent for obtaining genetic information. It also proposed to provide individuals who are tested the right to inspect genetic information concerning them and to be informed of the results of genetic tests. The bill also proposed to prohibit discrimination in employment on the basis of genetic information.

**Committee Amendment “A” (S-584)** replaced the bill. It proposed to prohibit discrimination in employment on the basis of genetic information, on the basis that an employee or applicant received genetic testing or genetic counseling, or because an employee or applicant refused to submit to genetic testing or make available genetic test results.

The amendment proposed to prohibit discrimination in health insurance against individuals or eligible dependents on the basis of genetic information, on the basis that an individual received genetic testing or genetic counseling, or because an individual refused to submit to genetic testing or make available genetic test results.

The amendment proposed to prohibit unfair discrimination in the application of genetic information or genetic test results in life, disability, long-term care insurance and other limited health benefit policies regulated by the Bureau of Insurance.

The amendment also proposed to enact the provisions of the National Association of Insurance Commissioner's "Insurance Information and Privacy Protection Model Act" governing the collection, use and disclosure of personal information about insurance consumers gathered in connection with insurance transactions by regulated insurance entities and insurance support organizations. It exempts workers' compensation, property, casualty, medical malpractice, fidelity, suretyship, boiler and machinery and title insurance from the application of these provisions.

The amendment also proposed to add an application section and a fiscal note to the bill.

**Senate Amendment “A” to Committee Amendment “A” (S-594)** proposed to clarify the definition of health care.

***Enacted law summary***

Public Law 1997, chapter 677 prohibits discrimination in employment on the basis of genetic information, on the basis that an employee or applicant received genetic testing or genetic counseling, or because an employee or applicant refused to submit to genetic testing or make available genetic test results. The Maine Human Rights Commission is assigned responsibility for enforcement of this provision.

Public Law 1997, chapter 677 prohibits discrimination in health insurance against individuals or eligible dependents on the basis of genetic information, on the basis that an individual received genetic testing or genetic

counseling, or because an individual refused to submit to genetic testing or make available genetic test results. The law prohibits the use of genetic information and genetic testing in the issuance, withholding, extension or renewal of health insurance policies and in the fixing of rates, terms or conditions for health insurance.

The law prohibits unfair discrimination in the application of genetic information or genetic test results in life, disability, long-term care insurance and other limited health benefit policies regulated by the Bureau of Insurance. “Unfair discrimination” is defined to include the application of the results of a genetic test in a manner that is not reasonably related to anticipated claims experience. The Bureau of Insurance has authority to investigate and enforce practices or acts of insurers that permit unfair discrimination. Insurers that use genetic tests in a manner that does not unfairly discriminate must notify individuals that genetic tests are required and obtain the individual’s authorization in accordance with the provisions of the Insurance Information and Privacy Protection Act, Maine Revised Statutes, Title 24-A, chapter 24. Insurers must also ensure that individuals state in writing whether or not the individual wants to be informed of the results and provide a copy of the test results to the individual or a designated health care practitioner.

Public Law 1997, chapter 677 also enacts core provisions of the National Association of Insurance Commissioner’s “Insurance Information and Privacy Protection Model Act” governing the collection, use and disclosure of personal information about insurance consumers gathered in connection with insurance transactions by regulated insurance entities and insurance support organizations. Personal information is defined to include health information about an insurance consumer. The law exempts workers’ compensation, property, casualty, medical malpractice, fidelity, suretyship, boiler and machinery and title insurance from the application of these provisions.

The law requires regulated insurance entities to provide written notice of information practices to applicants, policyholders and claimants in connection with consumer insurance transactions. The notice must state whether or not personal information may be collected from persons other than the consumer; what types of information may be collected and the sources and investigative techniques used to collect that information; what types of disclosures about the consumer that may be made without prior authorization, and the rights of consumers to access personal information recorded by regulated insurance entities and to correct, amend or delete that recorded personal information.

The law establishes requirements for disclosure authorization forms used by regulated insurance entities and insurance support organizations. Disclosure authorization forms must include the signature or other authorization of the consumer; specify the nature of the information to be disclosed; indicate the types of persons authorized to disclose information; and specify the time period of the authorization. In the case of life, disability and long-term care insurance, disclosure authorizations may not remain valid for more than 30 months for the purpose of collecting information in connection with a policy application, policy reinstatement or request for a change in policy benefits. The authorization may remain valid for the duration of a claim if the information is being collected in connection with a claim for benefits. In the case of health and medical insurance, the authorization remains valid for the term of coverage of the policy and any renewals of that policy.

The law prohibits regulated insurance entities and insurance support organizations from disclosing personal information about a consumer collected or received in connection with a consumer insurance transaction unless the disclosure is made with due consideration for the safety and reputation of all persons who may be affected by the disclosure, is limited to the minimum amount necessary to accomplish a lawful purpose and is disclosed with the consumer’s written authorization or within a specific exception that authorizes disclosure without prior authorization. Disclosures that may be made without prior authorization include disclosures reasonably necessary to accomplish a business, professional or insurance function of the regulated insurance entity; disclosures to health care providers to verify benefits, inform consumers of a medical problem or to conduct an operations or services audit of the provider; disclosures to insurance regulatory authorities or law enforcement agencies; disclosures for

the purpose of conducting actuarial and research studies that do not identify insurance consumers; and disclosures in connection with the marketing of a product or service if health information is not disclosed.

The law also governs the use and disclosure of adverse underwriting decisions, investigative consumer reports and pretext interviews by regulated insurance entities and insurance support organizations. It sets standards and procedures for insurance consumers to have access to recorded personal information held by insurance entities or support organizations and to correct, amend or delete that information.

Public Law 1997, chapter 677 takes effect June 30, 1998, except that the provisions concerning the use of personal information about insurance consumers apply to consumer insurance transactions that take place on or after January 1, 1999.

**LD 1540**

**An Act to Establish a State Disaster Relief Trust Fund**

**DIED  
BETWEEN  
BODIES**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KERR	OTP-AM MAJ ONTP MIN	

LD 1540 was carried over from the First Regular and First Special Session and proposed to establish a disaster relief trust fund to be administered by the Maine Emergency Management Agency to match federal disaster assistance funds and provide other local disaster assistance. The trust fund is funded by a surcharge on homeowners' and business property insurance policies. The bill was originally referred to the Joint Standing Committee on Banking and Insurance, but was rereferred to the Joint Standing Committee on Appropriations and Financial Affairs in the Second Regular Session.

**Committee Amendment “A” (H-846)** is the minority report of the Joint Standing Committee on Appropriations and Financial Affairs. The amendment proposed to strike those provisions of the original bill that would have capitalized the Disaster Relief Trust Fund by imposing a surcharge on homeowners' and business property insurance policies. In its place, the amendment proposed to allow the fund to receive General Fund appropriations, transfers from the General Fund at the end of a fiscal year in an amount not to exceed \$2,000,000 in any fiscal year, any federal money deposited in the fund and all interest earned on the fund's balance.

The amendment proposed to authorize the Disaster Relief Trust Fund to be the first resource utilized when the Maine Revised Statutes, Title 37-B, section 742, regarding emergency proclamation or Title 37-B, section 744, regarding disaster relief, is invoked by the Governor.

The amendment also adds a fiscal note to the bill. Committee Amendment “A” was adopted in the House, but was not adopted in the Senate.

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
VIGUE JENKINS	OTP-AM	H-873

LD 1783 was carried over from the First Regular and First Special Session.

Part A of the bill proposed to set forth those practices of insurers that would constitute unfair claims practices under the Maine Insurance Code. Part A is based in part on the 1990 Unfair Claims Settlement Practices Model Act of the National Association of Insurance Commissioners. The intent of the law is to provide a regulatory framework for the Bureau of Insurance to act in those cases where unfair claim practices arise. The law does not create a private right of action nor is it intended to create an alternate mechanism to adjudicate disputed claims. Under Part A, the Superintendent of Insurance is required to adopt rules. Penalties, notice and hearing provisions of current law remain in effect.

Part B proposed to authorize the Superintendent of Insurance to make public aggregate ratios of substantiated consumer complaints against insurance companies. Only those complaints determined by the Bureau of Insurance to be valid are included in the development of these ratios. Part B of the bill was enacted in the First Special Session in Public Law 1997, chapter 314.

Part C proposed to clarify the jurisdictional and penalty provisions of the enforcement section of the Maine Insurance Code and give the superintendent concurrent disciplinary jurisdiction when insurers or insurance professionals violate laws outside the Maine Insurance Code, such as workers' compensation or general criminal laws, in the course of their insurance business.

**Committee Amendment “A” (H-873)** proposed to clarify language related to “unfair claims practices” and remove language making it an unfair claims practice for insurers to settle or attempt to settle claims for less than represented to an insured in advertising material.

The amendment also removes Part B and adds a fiscal note to the bill. The amendment removes language giving the superintendent concurrent disciplinary jurisdiction over violations of laws outside the Maine Insurance Code by persons and entities licensed by the Bureau of Insurance.

The amendment allows an exception for the failure of insurers to provide forms necessary to present claims within 15 days of a request when there is an extraordinary loss or series of losses as determined by the Superintendent of Insurance. It makes it an unfair claims practice for insurers to fail to deal with insureds in good faith to resolve claims. It requires the Superintendent of Insurance to ensure that the unfair claims practices provisions are enforced consistent with the Maine Revised Statutes, Title 24-A, chapter 56-A. It removes from unfair claims practices the exemption for life and health insurers.

#### *Enacted law summary*

Public Law 1997, chapter 634 provides a more expansive regulatory framework for the Bureau of Insurance to address unfair claims settlement practices by insurers and licensed insurance professionals. The law gives the Bureau recourse in instances where first-party insureds are subjected to unfair claims practices and also in certain specified instances where third-party claimants are subjected to unfair claims practices.

The law prohibits “unfair claims practices” by insurers and others engaged in the business of insurance when the acts are committed in conscious disregard of the law’s provisions or are committed with such frequency as to indicate a general business practice. Unfair claims practices against insureds and claimants include: knowingly misrepresenting to claimants and insureds relevant facts or policy provisions related to coverages at issue; failing to acknowledge with reasonable promptness pertinent written communications with respect to claims arising under its policies; failing to adopt and implement reasonable standards for the prompt investigation and settlement of claims arising under its policies; failing to develop and maintain documented claim files supporting decisions made regarding liability; refusing to pay claims without conducting a reasonable investigation; failing to affirm coverage or deny coverage, reserving any appropriate defenses, within a reasonable time after having completed its investigation related to a claim; and failing in the case of claims denials or offers of compromise settlement to promptly provide an accurate written explanation of the basis for those actions.

Public Law 1997, chapter 634 also makes it an unfair claims practices for insurers to compel insureds to institute suits to recover amounts due under its policies by offering substantially less than the amounts ultimately recovered in suits brought by them with such frequency as to constitute a general business practice, except that it is not an unfair practice when the insurer has a reasonable basis to contest the insurer’s liability, the amount of any damages or the extent of any injuries claimed.

The law makes it an unfair claims practice for an insurer to fail to deal with insureds in good faith to resolve claims made against policies of insureds without just cause and with such frequency as to indicate a general business practice.

The law removes the exemption for life and health insurers and requires the Superintendent of Insurance to ensure that the unfair claims practices provisions are enforced consistent with Maine Revised Statutes, Title 24-A, chapter 56-A.

Public Law 1997, chapter 634 also clarifies the jurisdictional and penalty provisions of the enforcement section of the Maine Insurance Code.

**LD 1848**

**An Act to Create the Consumer Health Care Division within the Bureau of Insurance**

**PUBLIC 792**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SAXL J	OTP-AM MAJ ONTP MIN	H-820 H-886 SAXL J

LD 1848, originally titled “An Act to Create the Managed Care Ombudsman Program,” was carried over from the First Regular and First Special Session and proposed to create the Managed Care Ombudsman Program within the Office of the Public Advocate. The program proposed to educate and assist consumers with managed care plan selection, assist enrollees in understanding their rights and responsibilities under managed care plans, advocate for policies and programs that protect consumer rights and interests and handle complaints and appeals and provide individual case representation. The bill establishes the Managed Care Ombudsman Program Fund, a dedicated fund to receive income from nonprofit hospital and medical service organizations, insurers and health maintenance organizations.

**Committee Amendment “A” (H-820)** retitled and replaced the bill. It proposed to establish the Consumer Health Care Division within the Bureau of Insurance for the purpose of providing education to consumers regarding health care plans and assistance to consumers in understanding their rights and responsibilities under health care plans. It creates the position of Director of the Consumer Health Care Division to head the division.

The amendment also proposed to establish the Consumer Health Care Division Advisory Council to advise the division in the exercise of the division's duties concerning the rights of consumers of health care services.

The amendment also removed the emergency preamble and emergency clause and added an allocation section and fiscal note to the bill.

**House Amendment “A” to Committee Amendment “A” (H-874)** proposed to require that the President of the Senate and the Speaker of the House each appoint one member of the joint standing committee having jurisdiction over insurance matters to the Consumer Health Care Division Advisory Council, instead of requiring joint appointment of one member of the joint standing committee having jurisdiction over insurance matters, as was required in Committee Amendment “A”.

The amendment also proposed to give those members of the council who are Legislators legislative per diem. House Amendment “A” was not adopted.

**House Amendment “B” to Committee Amendment “A” (H-886)** proposed to require that the President of the Senate and the Speaker of the House each appoint one member of the joint standing committee of the Legislature having jurisdiction over insurance matters to the Consumer Health Care Division Advisory Council, instead of requiring joint appointment of one member of the joint standing committee having jurisdiction over insurance matters, as was required in Committee Amendment "A."

The amendment also proposed to give those members of the council who are Legislators legislative per diem and to specify that the per diem would be paid by the Legislature.

***Enacted law summary***

Public Law 1997, chapter 792 establishes the Consumer Health Care Division within the Bureau of Insurance. The Division, headed by a director, will provide education and assistance to consumers regarding health care plans. The law also creates the Consumer Health Care Division Advisory Council to advise the division in the exercise of the division’s duties concerning the rights of consumers of health care services.

**LD 1857**

**An Act to Protect Patients of Managed Care Plans**

**ONTP**

Sponsor(s)  
BROOKS

Committee Report  
ONTP

Amendments Adopted

LD 1857 was carried over from the First Regular Session and First Special Session and proposed to establish a duty and standard of ordinary care that must be provided by an insurance company, health maintenance organization, preferred provider organization or a nonprofit hospital and medical service organization under a managed health care plan. It also proposed to authorize a person enrolled in a managed health care plan to bring a legal action for damages against a carrier if the person is harmed by a carrier's failure to exercise ordinary care.

<u>Sponsor(s)</u> LAFOUNTAIN		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-453
---------------------------------	--	-----------------------------------	--	------------------------------------

LD 1928 proposed to make the following changes to the laws governing reciprocal insurers and captive insurance companies.

1. It lowers the number of incorporators required to form a domestic reciprocal insurer in this State from 25 to three.
2. It raises the amount of the bond required for reciprocal insurers from \$25,000 to \$250,000.
3. It permits nonprofit corporations to be subscribers of reciprocal insurers.
4. It amends the requirement that a captive insurance company hold at least one meeting each year in Maine to allow teleconferenced and videoconferenced meetings if one board member participates in the meeting from this State.
5. It expands the lines of insurance that a captive insurance company may engage in to include life, health and other medical expense coverages.
6. It allows a captive insurance company to be organized as a reciprocal insurer as well as a domestic mutual insurer.
7. It corrects a cross-reference.
8. It lowers the rate of taxation for captive insurance companies.
9. It repeals the requirement that Maine-domiciled corporations that form captive insurance companies must pay two percent tax on direct premiums.

**Committee Amendment “A” (S-453)** proposed to remove the provisions of the bill relating to reciprocal insurers. It proposed to clarify that a captive insurer may reinsure annuities and life and health insurance written in connection with employee benefit plans of a captive insurer's single parent corporation or association parent. It also proposed to allow a captive insurer to reinsure credit health insurance and credit life insurance and to write financial guaranty insurance.

The amendment proposed to remove the proposed changes in the tax rate for captive insurers but to retain the correction of decimal point errors. The amendment also added a fiscal note to the bill.

#### *Enacted law summary*

Public Law 1997, chapter 583 makes changes to the laws governing captive insurance companies. It amends the requirement that a captive insurance company hold at least one meeting each year in the State to allow teleconferenced and videoconferenced meetings if one board member participates in the meeting from this State. It expands the lines of insurance that a captive insurer may engage in to include financial guaranty insurance,

reinsurance of credit health and credit life insurance and the reinsurance of annuities and life and health insurance written in connection with employee benefit plans of a captive insurer's single parent or association parent.

**LD 1929**

**An Act Concerning Notices Given in Connection with Mortgage Foreclosures**

**PUBLIC 579**

Sponsor(s)  
SAXL J

Committee Report  
OTP-AM

Amendments Adopted  
H-787

The 1995 amendments to the Maine Revised Statutes, Title 14, section 6111 are inconsistent with the provisions of Title 9-A, section 5-110, applicable to consumer credit transactions, and the provisions of the standard so-called Fannie Mae/Freddie Mac uniform mortgages that are utilized by supervised lenders so that these mortgages are marketable on the secondary market. These amendments may cause title problems and do cause confusion to consumers in that, under current law, consumers must receive up to three different notices, all with different deadlines and requirements.

LD 1929 proposed to eliminate the possibility of inconsistencies and confusion by clarifying that consumers' rights to cure defaults with respect to mortgages that are consumer credit transactions are governed by the Maine Consumer Credit Code and that, with respect to mortgages made by supervised lenders that are not consumer credit transactions, consumer's rights to cure defaults are governed by the provisions of the Fannie Mae/Freddie Mac uniform mortgage instruments.

**Committee Amendment "A" (H-787)** replaced and clarified the bill. The amendment proposed to require that at least 30 days' notice of right to cure be given by mortgagees to any cosigners against whom the mortgagee seeks to enforce the loan or obligation securing the mortgage. It allows notice of right to cure to mortgagors and cosigners to be provided by either certified mail or ordinary mail consistent with the notice of right to cure provisions for consumer credit transactions under the Maine Consumer Credit Code.

The amendment proposed to exempt from the requirements of the Maine Revised Statutes, Title 14, section 6111 mortgages subject to the notice of right to cure provisions of the Maine Consumer Credit Code; mortgages other than first mortgages made subject to the Code by agreement of the parties; and mortgages containing a 30-day notice of right to cure provision when notice is given to the mortgagor and to any cosigner against whom the mortgagee seeks to enforce the mortgage. The amendment makes the exemptions from the Title 14, section 6111 notice requirements applicable to mortgages enforced on or after July 4, 1996.

The amendment also added a fiscal note to the bill.

***Enacted law summary***

Public Law 1997, chapter 579 makes changes to Maine Revised Statutes, Title 14, section 1611 governing the notice requirements of right to cure defaults to mortgagors and cosigners before enforcement of a loan or obligation securing a mortgage. It requires that at least 30 days' notice of right to cure be given by mortgagees to any cosigners against whom the mortgagee seeks to enforce the loan or obligation securing the mortgage. It allows notice of right to cure to mortgagors and cosigners to be provided by either certified mail or ordinary mail consistent with the notice of right to cure provisions for consumer credit transactions under the Maine Consumer Credit Code.

Public Law 1997, chapter 579 also exempts from the requirements of Title 14, section 1611 mortgages subject to the notice of right to cure provisions of the Maine Consumer Credit Code; mortgages other than first mortgages made subject to the Code by agreement of the parties; and mortgages containing a 30-day notice of right to cure provision when notice is given to the mortgagor and any cosigner against whom the mortgagee seeks to enforce the loan or obligation securing the mortgage. The exemptions apply to mortgages enforced on or after July 4, 1996.

**LD 1943**                      **An Act to Repeal the Residency Requirement for Credit Union Directors**                      **PUBLIC 566**

<u>Sponsor(s)</u> SAXL J LAFOUNTAIN	<u>Committee Report</u> OTP	<u>Amendments Adopted</u>
-------------------------------------------	--------------------------------	---------------------------

LD 1943 proposed to remove the requirement that directors of state-chartered credit unions be residents of the State. The bill also makes state law consistent with federal law applicable to directors of federally chartered credit unions.

***Enacted law summary***

Public Law 1997, chapter 566 removes the requirement that directors of state-chartered credit unions be residents of the State and makes state law consistent with federal law requirements for directors of federally chartered credit unions.

**LD 2034**                      **An Act to Correct Errors and Inconsistencies in Licensing Requirements for Licensed Insurance Professionals and Insurers**                      **PUBLIC 592**

<u>Sponsor(s)</u> LAFOUNTAIN	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-462
---------------------------------	-----------------------------------	------------------------------------

LD 2034 proposed to correct errors and inconsistencies and clarify language in the licensing laws for insurance licensees in the areas of service of process, fees, agency licensing, examinations, surplus lines licensing and viatical settlements providers. The Maine Revised Statutes, Title 24-A, section 1431 has been repealed and similar language has been enacted as section 1441-A and section 1432 has been repealed and similar language has been enacted as section 1441-B. This bill also proposed to clarify that a home service contract sold by a licensed real estate broker is not insurance.

**Committee Amendment “A” (S-462)** proposed to add an exemption to the examination requirements for insurance producer licenses for applicants selling mechanical breakdown insurance only.

The amendment also added a fiscal note to the bill.

***Enacted law summary***

Public Law 1997, chapter 592 corrects errors and inconsistencies and clarifies language in the licensing laws for insurance licensees as a result of the recodification of that chapter of the Maine Insurance Code.

Public Law 1997, chapter 592 also clarifies that a home service contract sold by a licensed real estate broker is not insurance and adds an exemption to the examination requirements for insurance producer licenses for applicants selling mechanical break down insurance only.

**LD 2049**

**An Act to Restore the Managing General Agents Act**

**PUBLIC 573  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MAYO DAVIDSON	OTP	

During the last legislative session the Managing General Agents Act was repealed from the Maine Insurance Code. LD 2049 proposed to enact the Managing General Agents Act in the Maine Revised Statutes, Title 24-A, chapter 16, subchapter VIII. The language is similar to the previous law except for the change of the term "agent" to "producer" and internal cross-reference changes.

***Enacted law summary***

Public Law 1997, chapter 573 enacts the Managing General Agents Act in Maine Revised Statutes, Title 24-A, chapter 16. The Managing General Agents Act was inadvertently repealed in the last legislative session and not reenacted as part of Title 24-A, chapter 16. Public Law 1997, chapter 573 corrects that error.

Public Law 1997, chapter 573 was enacted as an emergency measure effective February 25, 1998; the law applies retroactively to October 1, 1997 to match the effective date of Maine Revised Statutes, Title 24-A, chapter 16.

**LD 2050**

**An Act to Amend the Laws Concerning Life and Health Insurance**

**PUBLIC 604**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SAXL J DAVIDSON	OTP-AM	H-819

LD 2050 proposed to make the following changes to the laws concerning life and health insurance.

In Part A clarify the applicability to multiple-employer welfare arrangements of the consumer protections provided in the Maine Revised Statutes, Title 24-A, chapter 56-A.

In Part B require a notice to terminating employees of their right to purchase an individual medical policy.

In Part C clarify requirements for coverage of newborn children and extends this requirement to health maintenance organizations.

In Part D clarify the law with respect to home health care insurance policies.

In Part E require assignment of benefits if requested by the insured.

Policyholders sometimes request termination of a life or health insurance policy prior to the end of the period for which premiums have been paid, not realizing that there will be no refund premium. Part F proposed to require disclosure in these circumstances and requires coverage for the full period for which premium has been paid unless the policyholder requests otherwise.

In Part G prohibit coordination with Medicare coverage for which the insured is eligible but not enrolled except under specified conditions.

**Committee Amendment “A” (H-819)** proposed to do the following.

1. Rewrite awkward language in Part B.
2. Make the language regarding requirements for newborn coverage consistent with other provisions.
3. Clarify that the amount payable upon assignment of benefits under a health insurance policy is the amount that would otherwise be payable under the policy or contract.
4. Require that insurers include a statement in the contract regarding whether or not a refund of premium is available when a policyholder requests termination of a policy prior to the end of the period for which premiums have been paid.
5. Clarify the coordination of Medicare benefits provisions.
6. Require that if a totally disabled person obtains replacement coverage the replacement plan is primary coverage during the extension of benefits period.

The amendment also added a fiscal note to the bill.

#### ***Enacted law summary***

Public Law 1997, chapter 604 makes several changes to the laws governing life and health insurance. It makes the provisions of Maine Revised Statutes, Title 24-A, chapter 56-A applicable to multiple-employer welfare arrangements. It requires nonprofit hospital and medical service organizations, insurers and health maintenance organizations to provide notice to group members terminating coverage under the group policy of their rights to purchase an individual insurance policy. It extends the requirements for coverage of newborn children to health maintenance organizations. And it clarifies the law with respect to home health care insurance policies.

Public Law 1997, chapter 604 also requires assignment of benefits under a health insurance policy if requested by an insured and clarifies that the amount payable upon assignment of benefits is the amount that would otherwise be payable under a policy or contract. It requires that life and health insurance contracts that do not provide for any refund of premium when a policyholder requests cancellation prior to the period for which premiums have been paid must include a statement in the contract to that effect and also requires insurers to provide similar written notice to a policyholder that no refund is payable but that coverage will be provided until the end of the period for which premiums have been paid.

Except under certain conditions, the law prohibits coordination of benefits with Medicare coverage for which the insured is eligible but not enrolled. And it requires that if a totally disabled person obtains replacement coverage the replacement plan is primary coverage during the extension of benefits period.

**LD 2068**

**An Act to Permit Off-label Use of Prescription Drugs for Cancer,  
HIV or AIDS**

**PUBLIC 701**

<u>Sponsor(s)</u> LAWRENCE		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-580
-------------------------------	--	-----------------------------------	--	------------------------------------

LD 2068 proposed to require health insurance policies to provide coverage for off-label use of prescription drugs for the treatment of cancer, HIV or AIDS when such use is recognized in standard medical compendia or peer-reviewed professional journals.

This bill applies to all policies, contracts and certificates in effect on or after January 1, 1999 that provide coverage for prescription drugs.

**Committee Amendment “A” (S-580)** replaced the bill. The amendment proposed to add a definition of "medically accepted indication" and require that carriers determine whether or not use of a drug for the treatment of cancer is a medically accepted indication based upon guidance provided by the federal Department of Health and Human Services. The amendment retained the language in the original bill regarding coverage of off-label prescription drugs for the treatment of HIV or AIDS.

This amendment also proposed to amend the definition of "peer-reviewed medical literature" and clarify that coverage provisions for maximum benefits, coinsurance and deductibles apply to coverage for off-label prescription drugs to the same extent that the provisions are applicable to coverage of all prescription drugs.

The amendment also added a fiscal note to the bill.

***Enacted law summary***

Public Law 1997, chapter 701 requires that nonprofit hospital and medical service organizations, insurers and health maintenance organizations provide coverage for off-label use of prescription drugs for the treatment of cancer when the use of the drug is a medically accepted indication demonstrated by recognition of the use in standard medical compendia or the insurance carrier’s determination that the use is medically accepted based upon guidance provided by the federal Department of Health and Human Services.

Public Law 1997, chapter 701 also mandates insurance coverage for off-label use of prescription drugs for the treatment of HIV or AIDS when such use is recognized in standard medical compendia or peer-reviewed medical literature.

The requirements of chapter 701 apply to all individual and group policies, contracts and certificates in effect on or after January 1, 1999 that provide coverage for prescription drugs.

**LD 2130**                      **An Act Relating to Unfair Practices in the Provision of Goods and Services Paid for by Insurance Claims**                      **ONTP**

<u>Sponsor(s)</u> DAVIDSON		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
-------------------------------	--	---------------------------------	--	---------------------------

LD 2130 proposed to prohibit the giving of inducements or discounting an amount equal to some or all of an insurance deductible in the provision of goods or services paid for in whole or in part by insurance claims.

**LD 2166**                      **An Act to Require Health Insurance Coverage for In Vitro Fertilization Procedures**                      **ONTP**

<u>Sponsor(s)</u> SAXL J		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
-----------------------------	--	---------------------------------	--	---------------------------

LD 2166 proposed to require that health insurance policies include coverage for three cycles of in vitro fertilization procedures. Under the bill, a contract that provides such coverage may require a 20 percent copayment by the insured.

This bill would have applied to all policies, contracts and certificates in effect on or after January 1, 1999.

**LD 2174**                      **An Act to Implement the Recommendations of the Commission to Study Insurance Fraud**                      **PUBLIC 675**

<u>Sponsor(s)</u>		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-914
-------------------	--	-----------------------------------	--	------------------------------------

LD 2174 proposed to implement recommendations of the Commission to Study Insurance Fraud.

1. It prohibits fraudulent insurance acts and makes violations subject to civil penalties.
2. It requires insurers to include warnings on all claim forms and insurance applications.
3. It clarifies the immunity provisions to allow sharing of information related to fraudulent insurance acts between law enforcement agencies and insurers.
4. It requires insurers to report fraudulent insurance acts on an annual basis to the Superintendent of Insurance.
5. It requires insurers to develop antifraud plans.

**Committee Amendment “A” (H-914)** proposed to clarify that information reported to the Bureau of Insurance related to suspected, anticipated or completed fraudulent insurance acts may not identify any individuals or entities. The amendment requires the Superintendent of Insurance to adopt rules defining the information to be reported by January 1, 1999 but designates the rules as routine technical rather than major substantive.

The amendment proposed to exempt reinsurers, agencies and producers from the requirement to prepare and implement an antifraud plan and clarify that the immunity provision applies to any person furnishing information to an authorized agency.

The amendment also added a fiscal note to the bill.

***Enacted law summary***

Public Law 1997, chapter 675 strengthens the laws concerning fraudulent insurance acts in the Maine Insurance Code. It prohibits fraudulent insurance acts and makes violations subject to civil penalties. It requires insurers to include warnings to insurance consumers on all claim forms and insurance applications that fraudulent insurance acts are subject to civil and criminal penalty. It requires that insurers report fraudulent insurance acts annually to the Superintendent of Insurance. The law requires insurers, except for reinsurers and insurance producers and agencies, to develop internal antifraud plans. And it clarifies the immunity provisions to allow sharing of information related to fraudulent insurance acts between law enforcement agencies and insurers.

**LD 2190**                      **An Act to Implement the Recommendations of the Blue Ribbon Commission to Study the Effects of Government Regulation and Health Insurance Costs on Small Businesses in Maine**                      **PUBLIC 616**

<u>Sponsor(s)</u>		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> S-489
-------------------	--	-----------------------------------	--	------------------------------------

LD 2190 proposed to implement the recommendations of the Blue Ribbon Commission to Study the Effects of Government Regulation and Health Insurance Costs on Small Businesses in Maine.

**Committee Amendment “A” (S-489)** proposed to remove that section of the bill that prohibited the introduction of a mandated health benefit proposal in a second regular session or a special session of the Legislature. The amendment also proposed to clarify that a majority of committee members must support a proposed mandate before referring the mandate for review and evaluation by the Bureau of Insurance.

The amendment also added a fiscal note to the bill.

***Enacted law summary***

Public Law 1997, chapter 616 allows a private purchasing alliance to be organized as a for-profit corporation; removes the prohibition on insurance producers from being a board member, officer or employee of an alliance; and prohibits a private purchasing alliance from purchasing health care services, assuming risk for the cost or provision of health care services or otherwise contracting with health care providers for the provision of health care services without the prior approval of the Superintendent of Insurance.

Public Law 1997, chapter 616 also makes changes to the process for review of proposed mandated health insurance benefits legislation. It requires that a majority of the members of the legislative committee reviewing the proposed mandate must support the mandate before requesting review and evaluation by the Bureau of Insurance. It requires that the committee review the findings of the Bureau of Insurance. The law expands the statutory criteria for reviewing the mandated benefit proposal to include the impact of the mandate on the state employee health

insurance program; the extent to which the mandated benefit is being offered under collectively bargained health plans and under self-insured plans; the extent to which the mandated benefit is consistent with the concept of managed care; and the cumulative impact of mandating the proposed benefit in combination with existing mandates on the costs and availability of coverage.

**LD 2197**

**An Act to Implement Recommendations of the Joint Standing Committee on Banking and Insurance Relating to the Review of the Bureau of Insurance, the Bureau of Banking and the Securities Division within the Department of Professional and Financial Regulation under the State Government Evaluation Act**

**PUBLIC 660**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-884 H-894 CAMERON

LD 2197 proposed to implement the recommendations of the Joint Standing Committee on Banking and Insurance's review of the Bureau of Insurance, Bureau of Banking and Securities Division pursuant to the committee's review under the Government Evaluation Act.

Part A proposed to implement the recommendations relating to the Bureau of Banking and by doing the following.

1. Authorize the Bureau of Banking to bar an officer or director removed from a financial institution or holding company from working for special purpose financial institutions, i.e. merchant banks, nondepository trust companies and uninsured banks.
2. Make technical corrections and changes to the statutory provisions authorizing the establishment of a merchant bank.

Part B proposed to implement the recommendations relating to the Bureau of Insurance and by doing the following.

1. Transfer legal responsibility for the collection of insurance premium taxes on surplus lines insurers from the Bureau of Insurance to the Department of Administration and Financial Services, Bureau of Revenue Services, formerly the Bureau of Taxation.
2. Clarify the requirement that Maine domestic insurance companies pay an assessment to the Bureau of Insurance to reimburse the bureau for the costs associated with financial examination.

Part C proposed to implement the recommendations relating to the Department of Professional and Financial Regulation, Bureau of Banking, Securities Division and by doing the following.

1. Update the criminal penalty provisions of the Revised Maine Securities Act and bring them in line with the current class system for criminal conduct under the Maine Criminal Code.
2. Provide authority to the Securities Division to bring an action involving multiple violations in any county in which any violation occurs.

**Committee Amendment “A” (H-884)** proposed to clarify the manner in which surplus lines insurers pay premium taxes.

The amendment also proposed to clarify that the name of a Maine financial institution may appear on a credit card issued on its behalf by another financial institution if the name and state of the issuing financial institution also appear on the card. It also proposed to remove the requirement that the name of the financial institution appear in at least 10 point type.

The amendment also added a fiscal note to the bill.

**House Amendment “A” to Committee Amendment “A” (H-894)** was presented on behalf of the Committee on Bills in the Second Reading to prevent a conflict by incorporating changes made to the Maine Revised Statutes, Title 24-A, section 2016, subsection 1 in Public Law 1997, chapter 592.

***Enacted law summary***

Public Law 1997, chapter 660 makes changes to the laws relating to the Bureau of Banking, the Securities Division of the Bureau of Banking and the Bureau of Insurance. The law implements the recommendations of the Joint Standing Committee on Banking and Insurance pursuant to the committee’s review of these agencies under the Government Evaluation Act.

The changes that relate to the Bureau of Banking include authorizing the Bureau of Banking to bar an officer or director removed from a financial institution or holding company from working for special purpose financial institutions, i.e., merchant banks, nondepository trust companies and uninsured banks, and clarifying that the name of a Maine financed institution may appear on a credit card issued on its behalf by another financial institution if the name and state of the issuing financial institution also appear on the card.

In relation to the Securities Division, the law updates the criminal penalties of the Revised Maine Securities Act and brings them in line with the current class system for criminal conduct under the Maine Criminal Code. And it gives authority to the Securities Division to bring a court action involving multiple violations in any county in which any violation occurs.

The law’s changes relating to the Bureau of Insurance include transferring legal responsibility for the collection of insurance premium taxes on surplus lines insurers from the Bureau of Insurance to the Department of Administration and Financial Services, Bureau of Revenue Services and clarifying the requirement that Maine domestic insurance companies pay an assessment to the Bureau of Insurance to reimburse the bureau for the costs associated with financial examination of the companies.

**LD 2210**                      **Resolve, Regarding Legislative Review of Chapter 890: Consumer Complaint Ratios, a Major Substantive Rule of the Department of Professional and Financial Regulation**                      **RESOLVE 96 EMERGENCY**

<u>Sponsor(s)</u>		<u>Committee Report</u>		<u>Amendments Adopted</u>
		OTP		

LD 2210 proposed to provide for legislative review of Chapter 890: Consumer Complaint Ratios, a major substantive rule of the Department of Professional and Financial Regulation, Bureau of Insurance.

***Enacted law summary***

Resolve 1997, chapter 96 authorizes final adoption of major substantive rule Chapter 890: Consumer Complaint Ratios of the Bureau of Insurance.

Resolve 1997, chapter 96 was enacted as an emergency measure effective March 23, 1998.

**LD 2222                      An Act to Revise and Update the Charter of the Maine Employers' Mutual Insurance Company in Furtherance of its Mission                      PUBLIC 661**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CARLETON	OTP-AM    MAJ	H-905
LAFOUNTAIN	ONTP        MIN	

LD 2222 proposed to update the statutory charter of Maine Employers' Mutual Insurance Company, or MEMIC. The bill proposed to expand the purpose of MEMIC to include being responsive to the advice of its advisory divisions. It proposed to allow MEMIC to reinsure workers' compensation and employers' liability insurance for Maine-based employers that MEMIC insures doing business in other states and provide MEMIC the authority to create or buy subsidiary companies in other jurisdictions in order to write workers' compensation in those jurisdictions. It also removed historical language dealing with MEMIC's incorporation.

The bill proposed to reduce the size of the board of MEMIC from 13 to 9 members. It also proposed to clarify the terms of board members and to remove historical sections governing initial funding and operation. The bill proposed to update and revise the role and responsibilities of the divisions and their relationship to the board. The board's charge is adjusted to maintain divisions consisting of general industry groupings, which can parallel national classifications. The management responsibilities reserved for the divisions are shifted to the board. The divisions become responsible for advising the board on issues of importance to the divisions. Restrictions regarding surplus and funding are removed. Historical references to the initial divisions are removed. The board's authority to adjust the makeup of divisions, with approval by the Superintendent of Insurance, continues. The bill proposed to adjust the size of the advisory division boards to provide for up to 9 members and to add language to provide greater latitude regarding MEMIC's responsibility for financial accounting and rating for each division.

The bill also proposed to grant MEMIC the ability to file and use rates, the same practice allowed for other insurance companies, if it files within the established rate band. Rates that are higher or lower than the rate band must receive prior approval by the Superintendent of Insurance.

**Committee Amendment "A" (H-905)** proposed to clarify that subsidiary insurers formed or acquired by the Maine Employers' Mutual Insurance Company may not be authorized to write any line of insurance in this State. The amendment clarified that the reduction in the size of the board of directors must be done through attrition. The amendment retained the authority of the company to contract with licensed producers.

The amendment also added a fiscal note to the bill.

***Enacted law summary***

Public Law 1997, chapter 661 updates the statutory charter of Maine Employers' Mutual Insurance Company. The law expands the purpose of the company to include responding to the advice of its advisory divisions; removes

historical, outdated language relating to the initial incorporation, funding and operation of the company; and reduces the size of the company board from 13 to 9 members.

Public Law 1997, chapter 661 also authorizes MEMIC to create or buy subsidiary companies in other jurisdictions in order to write workers' compensation insurance in those jurisdictions and to reinsure workers' compensation and employers' liability insurance for Maine-based employers that MEMIC insures that do business in other states.

And the law grants MEMIC the ability to file and use rates for workers' compensation insurance if the rates are within the established rate bands. Rates that are higher or lower than the established rate band must receive prior approval of the Superintendent of Insurance.